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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590	07/20/2005		EXAMINER	
Glenn K. Beaton Gibson, Dunn & Crutcher, LLP Suite 4100 1801 California St. Denver, CO 80202			COLON, CATHERINE M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,311

Applicant(s)

DIMITRUK ET AL.

Examiner

C. Michelle Colon

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office Action in response to the communication received on May 13, 2005. Claim 38 has been amended. Claims 1-42 are now pending in this application.

Response to Amendment

2. Applicant's amendment to claim 38 is acknowledged. The amendment is sufficient to overcome the 35 U.S.C. 112, second paragraph rejection set forth in the previous Office Action. Therefore, the 35 U.S.C. 112, second paragraph rejection of claim 38 is withdrawn.

Response to Arguments

3. Applicant's argument has been fully considered, but is found unpersuasive. In the Remarks, Applicant argues that McIlroy et al. does not teach or suggest an incremental process whereby the user may stop after initial data is input and a result is returned.

In response to argument 1), Examiner respectfully disagrees. In col. 6, lines 20-25, McIlroy et al. discloses that the guideline presented to the user can consist of *one or more questions*. Thus, a recommendation may be provided to the user after the user answers just one question (i.e., the system receives one set of input data from the user and outputs a recommendation); or a recommendation may be provided to the user after a series of questions and answers (i.e., repeating the steps of receiving input from

a user and outputting a recommendation). Additionally, in col. 7, lines 55-58, McIlroy et al. discloses that the number of questions presented varies with the guideline selected and the input from the user, thus further supporting McIlroy et al.'s teaching of an incremental process. Accordingly, Examiner respectfully submits McIlroy et al. does teach an incremental process whereby the user may stop after initial data is input and a result is returned.

Therefore, Applicant's argument has been fully considered, but not found persuasive. The rejections of claims 1-42 are maintained and repeated below.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-29, 31, 32 and 35-42 are rejected under 35 U.S.C. 102(b) as being anticipated by McIlroy et al. (U.S. 5,953,704).

As per claim 1, McIlroy et al. discloses a method for assisting a user in a process of decision-making or analysis involving a topic, with the aid of a computer and a display screen in association with the computer, comprising:

(a) establishing an algorithm and entering the algorithm into a computer (col. 5, lines 9-19; col. 7, lines 33-38; item 300 in Figure 1; The algorithm is entered via the system's input means.);

(b) displaying a screen set having information concerning the topic (col. 4, lines 38-48; col. 10, lines 54-67; Figure 10; A user can select a particular topic of interest.);

(c) displaying a screen set soliciting a set of input data for input by the user, and inputting said set of input data (col. 5, lines 21-34; col. 11, lines 51-67; Figure 14; The topic guideline solicits data from a user through one or more questions.);

(d) determining a recommendation by processing the input data through at least a portion of the algorithm (col. 7, lines 33-35; col. 12, lines 44-52; Figure 18; The system uses algorithms for each guideline to determine a recommendation based on the user's input.);

(e) displaying a screen set showing the recommendation and a screen set soliciting additional input data for input by the user, the contents of said screen sets being determined by step (d), and inputting said additional input data (col. 12, lines 53-65; Figures 16 and 17);

(f) repeating steps (d) and (e) until arriving at a final recommendation or analysis (col. 7, lines 47-58; col. 12, lines 20-28; The system uses one or more questions to determine a recommendation for a user based on the guideline selected and the input from the user, thus repeating the question-answer process as necessary.); and

(g) displaying a screen set showing the final recommendation or analysis (col. 13, lines 56-64; col. 14, lines 37-45; Figures 16 and 17; The system displays to the user the final recommendation after a series of question and answer sessions and possibly a specialist review.).

As per claim 2, McIlroy et al. discloses the method of claim 1, wherein the information screen set includes a first plurality of screens, the first plurality of screens being organized in accordance with a first organization scheme in which the screens are presented in a particular sequence (col. 4, lines 64-67; col. 5, lines 21-34; col. 6, lines 42-49; col. 7, lines 46-58; The system presents the screens to the user in a particular sequence based on the algorithm of the particular guideline selected by the user. The guidelines can have a different sequence from each other.).

As per claim 3, McIlroy et al. discloses the method of claim 2, wherein said first organization scheme includes the viewing of one or more particular screens being a precondition to the viewing of one or more other particular screens (col. 5, lines 21-23; col. 7, lines 46-58; The response to each question shown to the user determines which subsequent questions are shown to the user.).

As per claim 4, McIlroy et al. discloses the method of claim 3, wherein the information screen set includes a second plurality of screens, the second plurality of screens being organized in accordance with a second organization scheme different from the first organization scheme, and further comprising selecting for display the first organization scheme or the second organization scheme based upon the input data (col. 4, lines 64-67; col. 5, lines 21-34; col. 6, lines 42-49; col. 7, lines 46-58; The system presents the screens to the user in a particular sequence based on the algorithm of the particular guideline selected by the user. The guidelines can have a different sequence from each other.).

As per claim 5, McIlroy et al. discloses the method of claim 1, wherein the screen sets of step (e) include a plurality of screen sets being organized in accordance with a plurality of different organizations scheme, and further comprising selecting among said screen sets and organization schemes based on the input data (col. 4, lines 64-67; col. 5, lines 21-34; col. 6, lines 42-49; col. 7, lines 46-58; The system presents the screens to the user in a particular sequence based on the algorithm of the particular guideline selected by the user. The guidelines can have a different sequence from each other.).

As per claim 6, McIlroy et al. discloses the method of claim 5, wherein the algorithm includes computational logic for processing the input data and presentation logic for selecting the screen sets and organizations for display (col. 5, lines 9-19; col. 7, lines 33-38 and 46-58; col. 10, lines 54-67; col. 11, line 51-col. 12, line 16; The guideline's algorithm provides a particular sequence of questions whose answers are processed in a particular order as well. The answers to previous questions determine which subsequent questions to be asked, and therefore, subsequent screens to be shown.).

As per claim 7, McIlroy et al. discloses the method of claim 6, wherein the computational logic includes arithmetic logic for mathematically operating on numerical input data to derive numerical processed data (col. 6, lines 13-17; Figure 3).

As per claim 8, McIlroy et al. discloses the method of claim 7, wherein the computational logic includes operations logic for determining conclusions based at least in part on non-numeric input data (col. 5, lines 9-19; col. 7, lines 33-38; col. 10, lines 54-67; col. 11, line 51-col. 12, line 16; The guideline's algorithm provides a particular

sequence of questions whose answers are processed in a particular order as well. The answers to previous questions determine which subsequent questions to be asked. Users' answers are in both, numeric and non-numeric format.).

As per claim 9, McIlroy et al. discloses the method of claim 8, wherein the presentation logic includes navigational logic for establishing a set of screens having a determined organization scheme based on results determined by the computational logic using the input data (col. 5, lines 9-19; col. 7, lines 33-38; col. 10, lines 54-67; col. 11, line 51-col. 12, line 16; The guideline's algorithm provides a particular sequence of questions whose answers are processed in a particular order as well. The answers to previous questions determine which subsequent questions to be asked, and therefore, subsequent screens to be shown.).

As per claim 10, McIlroy et al. discloses the method of claim 9, wherein the presentation logic includes display logic for establishing a format for display of the screen sets established in claim 9 (col. 5, lines 9-19; col. 7, lines 33-38; col. 10, lines 54-67; col. 11, line 51-col. 12, line 16; The guideline's algorithm provides a particular sequence of questions whose answers are processed in a particular order as well. The answers to previous questions determine which subsequent questions to be asked, and therefore, subsequent screens to be shown.).

As per claim 11, McIlroy et al. discloses the method of claim 5, wherein step (a) includes establishing a preliminary decision tree, transforming said decision tree into an algorithm, and embodying the algorithm in a computer code (col. 5, lines 9-20; col. 7, lines 46-58).

As per claim 12, McIlroy et al. discloses the method of step 11, further comprising: testing the algorithm with a set of test data to generate a test recommendation; comparing the test recommendation to a predetermined recommendation; revising the algorithm to correct for an undesired discrepancy between the test recommendation and the predetermined recommendation; and repeating the foregoing steps of this claim 11 until there is no undesired discrepancy (col. 3, lines 22-24; col. 5, lines 45-53; col. 8, lines 46-56; col. 13, lines 26-29 and 41-42; The system monitors guidelines and recommendations for discrepancies.).

As per claim 13, McIlroy et al. discloses the method of claim 5, wherein at least some of the input data includes a degree of certainty regarding said input data (col. 9, lines 45-49 and 62-64).

As per claim 14, McIlroy et al. discloses the method of claim 13, wherein the degree of certainty data is utilized in producing recommendations (col. 9, lines 45-49 and 62-64).

As per claim 15, McIlroy et al. discloses the method of claim 12 wherein the degree of certainty data is utilized in determining the degree of certainty of a recommendation (col. 9, lines 45-49 and 62-64).

As per claim 16, McIlroy et al. discloses the method of claim 5, wherein the algorithm is used with a relational database (col. 2, lines 62-67; col. 3, lines 24-26; col. 4, lines 44-47).

As per claim 17, McIlroy et al. discloses the method of claim 5, further comprising: determining at least one reason for a recommendation related to input data;

and displaying on the screen at least one said reason (col. 5, lines 49-53; col. 13, lines 47-60; col. 14, lines 1-24; Figure 17; The system allows user to indicate a reason for a recommendation and displays it on the screen.).

As per claim 18, McIlroy et al. discloses the method of claim 17, further comprising: determining a plurality of reasons for the recommendation that are related to the user input; and displaying on the screen a plurality of reasons for the recommendation (col. 5, lines 49-53; col. 13, lines 47-60; col. 14, lines 1-24; Figure 17; The system allows user to indicate a reason for a recommendation and displays it on the screen. Multiple reasons are allowed.).

As per claim 19, McIlroy et al. discloses the method of claim 18, further comprising: displaying said plurality of reasons in an order corresponding to their importance in generating the set of information (col. 14, lines 25-36).

As per claim 20, McIlroy et al. discloses the method of claim 5, wherein the user input is a plurality of input, and further comprising: displaying a screen inviting the user to change at least one item of input; changing at least one item of input; then using said changed input to regenerate a recommendation (col. 12, lines 13-16; Users may go back and re-enter responses to questions.).

As per claim 21, McIlroy et al. discloses the method of claim 20, wherein the regenerated recommendation is based on said changed input together with items of input that are not changed (col. 12, lines 44-52; The responses to questions, changed and unchanged, are used to determine the recommendation.).

As per claim 22, McIlroy et al. discloses the method of claim 5, wherein screen displays are presented as pages (Figures 10-17).

As per claim 23, McIlroy et al. discloses the method of claim 5, wherein screen displays are presented as pages, and at least one of the pages is displayed only after certain input is made by the user (col. 12, lines 44-52; Figures 10-17).

As per claim 24, McIlroy et al. discloses the method of claim 5, wherein the recommendation is based in part directly upon input from the user and in part upon information derived from input from the user (col. 12, lines 44-52).

As per claim 25, McIlroy et al. discloses the method of claim 1, further comprising: entering a desired recommendation into the computer; determining a discrepancy between a determined recommendation and a desired recommendation; determining a type of changed input that would eliminate said discrepancy; and displaying on a screen said type of changed input (col. 8, lines 29-56; col. 13, lines 26-64; The system compares differences between proposed and actual recommendations and elicits either specialist reviews and/or reasons from the user for the differences.).

As per claim 26, McIlroy et al. discloses the method of claim 25, wherein the step of determining a type of changed input includes determining a plurality of changed input, and said step of displaying on a screen said type of changed input includes displaying a plurality of said type of changed input (col. 8, lines 29-56; col. 13, lines 26-64).

As per claim 27, McIlroy et al. discloses the method of claim 1, further comprising: assigning a degree of importance to at least some of the input parameters;

and wherein said determined recommendation is based at least in part on said assigned degree of importance (col. 14, lines 25-36).

As per claim 28, McIlroy et al. discloses the method of claim 5, wherein at least a portion of a recommendation is to obtain expert advice (col. 12, lines 20-22; col. 13, lines 26-60).

As per claim 29, McIlroy et al. discloses the method of claim 28, wherein said expert advice recommendation includes directions to information about an expert (col. 13, lines 26-60).

As per claim 31, McIlroy et al. discloses the method of claim 5, wherein step (a) includes receiving expertise from a person or organization knowledgeable in the topic, and further comprising providing consideration to said person in exchange for said expertise (col. 13, lines 26-60).

As per claim 32, McIlroy et al. discloses the method of claim 31, wherein said consideration includes the provision of identifying a person or organization on one or more displayed screens (col. 13, lines 26-60).

As per claim 35, McIlroy et al. discloses the method of claim 31, wherein said consideration is based at least in part on the number of uses of the system (col. 8, lines 57-64; col. 13, lines 26-60).

As per claim 36, McIlroy et al. discloses the method of claim 31, wherein said person pays consideration in addition to the provision of expertise (col. 13, lines 26-60).

As per claim 37, McIlroy et al. discloses the method of claim 36, wherein the consideration paid by said person is based at least in part on referrals to said person (col. 13, lines 26-60).

As per claim 38, McIlroy et al. discloses the method of claim 31, further comprising charging users for use of the method through at least one of a user subscription fee, a per-use fee and a blended fee (col. 13, lines 26-60; In determining the type of review to have during the specialist review processes, the different costs (i.e., fees charged) and expertise are considered.).

As per claim 39, McIlroy et al. discloses the method of claim 31 wherein said consideration is based at least in part on revenue or profit realized from use of the method by users (col. 13, lines 26-60; In determining the type of review to have during the specialist review processes, the different costs and expertise are considered.).

As per claim 40, McIlroy et al. discloses the method of claim 1, further comprising assigning degrees of importance to a plurality of potential recommendations (col. 14, lines 25-36).

As per claim 41, McIlroy et al. discloses the method of claim 40, further comprising assigning degrees of importance to items of input data based at least in part on their importance in determining recommendations having assigned degrees of importance (col. 14, lines 25-36).

As per claim 42, McIlroy et al. discloses the method of claim 41, further comprising selecting sets of screens for display based at least in part on the assigned degree of importance of input data solicited or used in said sets of screens (col. 13,

lines 56-64; col. 14, lines 37-45; Figures 16 and 17; The system displays to the user the final recommendation after a series of question and answer sessions and possibly a specialist review.).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 30, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIlroy et al. (U.S. 5,953,704).

As per claims 30, 33 and 34, McIlroy et al. does not expressly disclose the method of claims 29, 32 and 34, wherein the computer is in communication with the Internet, and said directions include a link to an expert's website; wherein the computer is in communication with a network and said identified person or organization has a site also in communication with the network, and wherein said identifying includes a link from said displayed screens to said persons' site; and wherein the network is the Internet. However, McIlroy et al. does disclose the system being connected to a network (col. 4, lines 54-56). It is old and well known that the Internet, in which web sites exist, is a specific type of global network. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of McIlroy et al. to be connected to the Internet and to link to experts' sites since doing so would

provide global access to the system, thus providing convenient and easy access to users of the system.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae (formerly, C. Michelle Colon) whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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July 12, 2005

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